

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL No. 1456
Civil Action No. 01-12257-PBS

THIS DOCUMENT RELATES TO:

City of New York et al. v. Abbott Laboratories, et al., Civ. Action No. 04-cv-06054, et al.

Judge Patti B. Saris
Magistrate Judge Marianne B. Bowler

**DEFENDANTS' STATUS REPORT REGARDING
OUTSTANDING DISCOVERY MOTIONS**

Pursuant to this Court's Order of June 13, 2008, Bayer Corporation, on behalf of the Defendants identified in the Revised First Amended Consolidated Complaint, respectfully submits this status report listing all outstanding discovery motions that need to be addressed by Magistrate Judge Bowler's session.

1. Plaintiffs' Motion to Compel Discovery from Defendant Boehringer Ingelheim Roxane Lab., Inc. Plaintiffs filed this motion on December 21, 2007 (Doc. 4911). It is fully briefed (Docs. 4992, 4995, 5024).

2. Plaintiffs' Motion to Compel the Production of Data for the Designated FUL Drugs from Defendants. Plaintiffs filed this motion on January 31, 2008 (Doc. 5027). It is fully briefed (Docs. 5028, 5050, 5055, 5107, 5130). This motion has been withdrawn as to all defendants except defendant AstraZeneca Pharmaceuticals LP.

3. Defendants' Motion to Compel Comm'r of NY State Dep't of Health and Three Key Witnesses to Comply with Subpoenas/Cross-Motion to Quash Subpoenas Issued by Defendants to the NY State Dep't of Health and/or Its Current and Former Employees. Defendants filed their joint motion on February 19, 2008 (Doc. 5052). The New York State

Department of Health and Plaintiffs filed their cross-motion on March 4, 2008 (Doc. 5120).

Both motions are fully briefed (Docs. 5053, 5054, 5121, 5155, 5199).

4. Defendants' Motion to Compel the Production of Claims Data. Defendants filed their joint motion on February 27, 2008 (Doc. 5092). It is fully briefed (Docs. 5093, 5094, 5162, 5165, 5194). Although this motion requires resolution, Defendants believe that, in light of subsequent productions and discussions, supplemental briefing is necessary to highlight and focus on the issues that remain in dispute.

5. Schering Corporation's Motion for Protective Order. Defendant Schering Corporation filed this motion on May 13, 2008 (Doc. 5296). It is fully briefed (Docs. 5297, 5298, 5299, 5358).

Dated: June 30, 2008

Respectfully submitted,

/s/ Richard Raskin
Richard D. Raskin
Michael P. Doss
Gary Feinerman
Scott D. Stein
Sidley Austin LLP
One South Dearborn Street
Chicago, Illinois 60603
(312) 853-7000

Robert Sherman
DLA Piper US LLP
33 Arch Street, 26th Floor
Boston, Massachusetts 02110-1447
(617) 406-6035

*Counsel for Defendant Bayer Corporation on
behalf of all other Defendants identified in the
Revised First Amended Consolidated Complaint*

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2008, I caused a true and correct copy of the foregoing Defendants' Status Report Regarding Outstanding Discovery Motions to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 in MDL No. 1456.

/s/ Richard Raskin